IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 19774 of 2004

Between:

A. Sumalatha Muthyam Reddy, W/o. A. Muthyam Reddy,
aged 38 years, Occ: President, Mandal Praja Parishad Laxmanachanda, Adilabad District, R/o. Presently staying at Plot No.19, H.No.2-3-70/5/4, New Samathapuri Colony, Road No.2, Nagole, Hyderabad.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Nirmal, Adilabad District.
2 Zilla Parishad, Adilabad, rep. by its Chief Executive Officer.
3 The Mandal Development Officer, Laxmanchanda, Adilabad District.
4 Tunki Rajeswar, MPTC, Babapur.
5 N. Kalpana Ram Reddy, MPTC, Wadiyal.
6 Guripelly Chinnamma, MPTC, New Velmal.
7 Poshetty, MPTC, Laxmanchanda.
8 Lingavva, MPTC, Mallapur.
9 Manthena Anasuya, MPTC, Parpelly.
10 Sonna Muthanna, MPTC, Rachapur,
(R-4 to 10 are of Adilabad District.)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ or any appropriate writ or writs or directions more particularly one in the nature of Writ of Mandamus declaring the impugned notice dt.12.10.2004 issued by the respondent No.1 in proceedings No.Rc.C/3564/2004 as illegal, arbitrary, unconstitutional and without jurisdiction and be pleased to pass.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondent Nos.4 to 10: SMT.G.JYOTHI KIRAN

Counsel for the Respondent Nos.1 to 3: GP FOR PANCHAYAT

RAJ & RURAL DEV.

The Court made the following:

ORDER:

Notice dated 12-10-2004 issued by the first respondent convening a 'No Confidence Motion' against the petitioner to be held on 30-12-2004 and the consequential proceedings are questioned by the petitioner in this writ petition.

2. The case of the petitioner, who was elected as the President, Lakshmanachanda Mandal Praja Parishad, is that as she was going to Hyderabad for medical treatment and would be away for more than 15 days from the head quarters, she gave an advance intimation of her long absence to the Chief Executive Officer of the 2nd respondent Zilla Parishad, with copies to the Chairman, Zilla Parishad and the Mandal Parishad Development Officer, Lakshmanachanda (3rd respondent), vide her letter dated
08-10-2004 with a request to make alternate arrangements during her absence and gave her address at Hyderabad also. Taking undue advantage of her absence, 4th respondent, in collusion with the other members of the Mandal Parishad Territorial Constituencies (MPTCs), hatched a plan to oust her from the post of President and issued a notice dated 12-10-2004 proposing to hold a meeting of 'No Confidence' against her and consequently first respondent seem to have convened a meeting to consider the motion of 'No Confidence' against her on 30.10.2004. Since no notice of the meeting to be held on 30.10.2004 is served on her, though she furnished her address at Hyderabad, the proposed meeting and all the consequent proceedings are against law and hence are liable to be set aside.

3. First respondent filed his counter affidavit. His case is that after receiving a notice of no confidence motion against the petitioner from respondents 4 to 9 on 11-10-2004, he, after having confirmed about the genuineness of the signatures of the MPTCs, on the said notice through the third respondent, issued a notice in Form V to all the MPTCs calling for the meeting of no confidence against the petitioner fixing the date of meeting as
30-10-2004 as contemplated by Rule 3 of the Rules relating to motion of No

confidence in Upa Sarpanch of Gram Panchayat, President/Vice President of Mandal Parishad or Chairman/Vice-Chairman of Zilla Parishads issued in G.O.Ms.No.220 PR & RD (Mdl.) Dept dated 28.04.1998 (for short – 'the Rules'). The said notice was served on all the MPTCs as per the procedure prescribed by the Rules. Since petitioner was not available at her residence and since her house was found locked, the notice addressed to her was pasted on a conspicuous place of her residence at Peechara village of Lakshmanachanda Mandal as petitioner failed to furnish her address at Hyderabad and so petitioner is not entitled to any relief.

4. Third respondent filed his counter affidavit contending that the petitioner who through her letter dated 08-10-2004 intimated about her absence for more than 15 days due to ill-health failed to mention her temporary address in the said letter and since notice was affixed to her house she cannot say that there was no due service of the notice of the meeting of no confidence proposed to be held on 30-10-2004.

5. Ninth respondent filed her counter affidavit for herself and on behalf of respondents 5 to 8 alleging that since they gave a notice of no confidence against the petitioner as per Rules and since the meeting for consideration of the no confidence motion was convened as per the Rules and since petitioner has knowledge about the meeting of 30-10-2004, she is not entitled to any relief.

6. Petitioner filed her reply affidavit admitting that she mentioned the address of her stay at Hyderabad only in the letter addressed to the Chief Executive Officer of second respondent (Zilla Parishad) and that she did not mention her address at Hyderabad in the letter addressed to the 3rd respondent.

7. The main grievance of the petitioner is that though she gave her temporary address to the C.E.O. of the 2nd respondent, notice of No confidence motion was not sent to her temporary address at Hyderabad, where she went for her medical treatment and since there is no valid service of notice on her, whole proceedings of no confidence are vitiated.

8. As per Section 167 of the A.P.Panchayat Raj Act, 1994, Mandal Parishad Development Officer (3rd respondent) shall be the Chief Executive Authority of the Mandal Parishad. Letter addressed by the petitioner to the third respondent, admittedly, does not contain her Hyderabad address. As per the Rules, Revenue Divisional Officer (first respondent) is the authority who will have to send notices of the motion of no confidence to the MPTCs. Petitioner admittedly did not even mark a copy of her letter dated 08.10.2004, addressed by her to the Chief Executive Officer of the Zilla Parishad about her absence for more than 15 days to the first respondent. She marked copies of that letter only to the Chairman, Zilla Parishad and the third respondent and as already stated the copy of the letter sent to the 3rd respondent admittedly does not contain her address at Hyderabad. So she cannot expect respondents 1 and 3 knowing her address at Hyderabad. That apart, petitioner also did not state in her letter that she would be away from station. She only stated that as she is not able to attend official duties from the last 8 days due to ill health and would not also able to attend in future, alternative arrangements may be made till she takes over charge and a copy of the letter may be sent to the Vice President through the MPDO (3rd respondent). When the letters sent to the respondents 1 and 3 do not contain the temporary address of the petitioner, and when the said letter also does not state that she would be away from station, petitioner cannot expect respondents 1 and 3 to know about her absence from the villages or her temporary address. The fact that petitioner mentioned her temporary address in the letter addressed to the Chief Executive Officer of 2nd respondent is of no consequence, more so when the body of the letter does not state that she would be away from the station through out the period of absence.

9. Rule 3 of the Rules lays down the method of service of notice as -

a. by giving or tendering such notice to such member, or

b. if such member is not found, by leaving such notice at his last known place of residence or business or by giving or tendering the same to some adult member or servant of his family; or

c. if such member does not reside in the Gram Panchayat area or Mandal Parishad area, or within the District and if his address is known to

the District Panchayat Officer/Chief Executive Officer/Collector or the Sarpanch of the Gram Panchayat to be elsewhere, by sending the same to him through registered post with Acknowledgement due; or

d. if none of the means aforesaid is available or if the persons referred to in clauses (a) and (b) refuse to receive the notice, by affixing the same at some conspicuous part of his place of residence or business.

The endorsement on the notice sent to petitioner reads:

> "The residential house is found locked at Nirmal & Peechara. As such the notice has been affixed on conspicuous place of her residential house at Peechara (v) before the witnesses.
>
> Witnesses:
>
> 1. Sd/- xxx - Allampalli Bhumanna S/o Pedda Bakkulu
> 2. Sd/- xxx - Burri Bhumanna S/o Linganna"

When both the houses of the petitioner at Nirmal and Peechara were found locked and when respondents 1 and 3 were not intimated about the petitioner leaving the villages or her address at Hyderabad, leaving / pasting the notice to one of her house is strictly in accordance with the procedure contemplated by Rule 3 of the Rules and so petitioner cannot by heard to say that she has no notice of the meeting and has to suffer the consequences for her lapses.

10. For the above reasons, petitioner is not entitled to any relief in this petition.

11. Hence, the writ petition is dismissed. No costs.

(C.Y.Somayajulu, J.)

Date: 25-04-2005

Cvrk

..... REGISTRAR

To

1 The Revenue Divisional Officer, Nirmal, Adilabad District.

2 The Chief Executive Officer, Zilla Parishad, Adilabad.

3 The Mandal Development Officer, Laxmanchanda, Adilabad District.

4 2 copies to the G.P. for Panchayat Raj & Rural Development, High Court Buildings, Hyderabad.

5 2 CD copies

6 1 CC to MR.NIRANJAN REDDY

7 1 CC to SMT.JYOTHI ESWAR GOGINENI